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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/821,378

04/09/2004

Gerry Cook

264.28

1816

7590

09/07/2005

Richard C. Conover

P. O. Box 1329

Bozeman, MT 59771-1329

EXAMINER

ALI, SHUMAYA B

ART UNIT

PAPER NUMBER

3743

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/821,378

Applicant(s)

COOK, GERRY

Examiner

Shumaya B. Ali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-9 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) ☐ Notice of Informal Patent Application (PTO-152)
 6) ☒ Other: detailed action.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Montag et al. US Patent 5,472,411**

As to claim 1, Montag et al. disclose foot and ankle control device comprising: an ankle cuff strap (**fig.3, 21,23,25**) having two ends; means for (**25**) connecting the two ends of the ankle cuff strap together after positioning the ankle cuff strap to encircle a leg of a wearer immediately above an ankle of the wearer; a foot support strap (**31**) having a medial "D"-ring (**fig.1, a D ring connecting strap 50 to 31**) attached to the support strap and a lateral "D"-ring (**fig.1 a D ring connecting strap 50 on lateral side**) attached to the support strap in spaced apart relation with the medial "D"-ring; the medial "D"-ring positioned at the medial side of the ankle and the lateral "D"-ring positioned at the lateral side of the ankle; the foot support strap positioned underneath the wearer's foot adjacent the in-step of the foot; a connecting strap (**fig.1, 50**) positioned to lie over the arch of the cooperation with the foot support strap to "D"-ring on the lateral side of the ankle and the medial "D"-ring on the medial side of the ankle; an elastic lateral control strap (**140**) having a first and second ends; means for connecting (**141 on the lateral side**) the first end of strap to the lateral "D"-ring; means for attaching (**42**) the second end of the lateral control the lateral control

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strap to the ankle cuff strap; an elastic medial control strap (**fig.2, 140**) having first and second ends; means for connecting (**fig.1, 40**) the first end of the medial control strap to the medial "D"-ring; and means for connecting (**42**) the second end of the medial control strap to the ankle cuff strap.

As to claim 2, Montag et al. in figs. 1-3 disclose wherein the elastic lateral control strap is positioned to extend from the lateral "D"-ring across the top of the wearer's arch to the medial side of the wearer's leg and the elastic medial control strap is positioned to extend from the medial "D"-ring across the top of the wearer's arch to the lateral side of the wearer's leg.

As to claim 3, Montag et al. wherein the means for connecting the two ends of the ankle cuff strap together comprises a hook material and a complimentary loop material (col.6 lines1-10 "Velcro tape")

As to claim 4, Montag et al. wherein the means for connecting the lateral control strap to the ankle cuff strap comprises a hook material and a complimentary loop material and wherein the means for connecting the medial control strap to the ankle cuff strap comprises a hook material and a complimentary loop material (col.6 lines 11-29 "Velcro tape").

As to claim 5, Montag et al. disclose foot and ankle control device comprising: an ankle cuff strap (**fig.3, 21,23,25**) having two ends; means for connecting (**25**) the two ends of the ankle cuff strap together after positioning the ankle strap to encircle a leg of a wearer immediately above an ankle of the wearer; a foot support strap (**31**) having first and second ends with a "D"-ring (**fig.1, a D ring connecting strap 50 to 31**) attached to one side of the support strap adjacent the first end and a second "D"-ring (**fig.1 a D ring connecting strap 50 on lateral side**) attached to the same side of the support strap adjacent the second end; the foot support strap positioned underneath the wearer's foot adjacent the instep of the foot with the "D"-rings facing outwardly and with one of the "D"-rings positioned at the medial side of the ankle

and the other "D"-ring positioned at the lateral side of the ankle; a connecting strap (**fig.1, 50**) positioned to lie over the arch of the foot and working in cooperation with the foot support strap to secure the lateral "D"-ring on the lateral side of the ankle and the medial "D"-ring on the medial side of the ankle; an elastic lateral control strap (**140**) having first and second ends; means for connecting (**141 on the lateral side**) the first end of the lateral control strap to the lateral "D"-ring; means for attaching (**42**) the second end of the lateral control

strap to the ankle cuff strap; an elastic medial control strap (**fig.2, 140**) having first and second ends; means for connecting (**141 on the lateral side**) the first end of the medial control strap to the medial "D"-ring; and means for connecting (**42**) the second end of the medial control strap to the ankle cuff strap.

As to claim 6, Montag et al. in figs. 1-3 disclose according to claim 5 wherein the elastic lateral control strap is positioned to extend from the lateral "D"-ring across the top of the wearer's arch to the medial side of the wearer's leg and the elastic medial control strap is positioned to extend from the medial "D"-ring across the top of the wearer's arch to the lateral side of the wearer's leg.

As to claim 7, Montag et al. disclose according to claim 5 wherein the means for connecting the two ends of the ankle cuff strap together comprises a hook material and a complimentary loop material (**col.6 lines1-10 "Velcro tape"**).

As to claim 8, Montag et al. disclose according to claim 5 wherein the means for connecting the two ends of the foot support strap together comprises a hook material and a complimentary loop material (**col.6 lines1-10 "Velcro tape"**).

As to claim 9, Montag et al. disclose the foot and ankle control device according to claim 5 wherein the means for connecting the lateral control strap to the ankle cuff strap comprises a hook material and a complimentary loop material and wherein the means for connecting the medial control strap to the

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ankle cuff strap comprises a hook material and a complimentary loop material (col.6 lines 11-29 "Velcro tape").

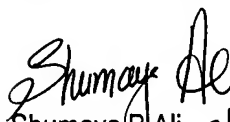
Conclusion

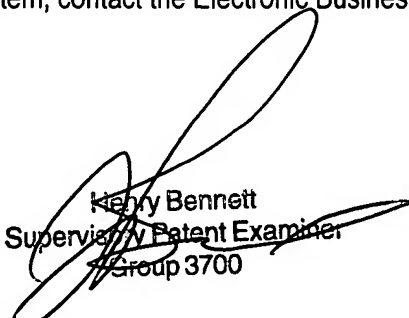
3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 5,822,887 teaches medial and lateral D-ring.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shumaya B. Ali whose telephone number is 571-272-6088. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Shumaya B. Ali
Examiner
Art Unit 3743
8/29/05


Henry Bennett
Supervisory Patent Examiner
Group 3700